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**AMENDMENT TO THE  
SECOND AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR HIGHLINE CLUB**

This Amendment to the Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Highline Club ("Amendment") is made this 17<sup>th</sup> day of January, 2019.

**RECITALS**

A. The Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Highline Club was recorded in the real property records of the City and County of Denver, Colorado on February 22, 2017 at Reception No. 2017025407 ("Declaration").

B. Section 25 of the Declaration provides that the Declaration may be amended by the affirmative vote of at least sixty-seven percent (67%) of the Owners.

C. Section 25 of the Declaration also requires approval of any material amendments to the Declaration by at least 75% of the First Mortgagees. Notice of the Amendment was given to First Mortgagees in accordance with the procedures outlined in C.R.S. § 38-33.3-217(1)(b).

D. The requisite approvals of the Owners and First Mortgagees have been obtained as evidenced by the certification attached hereto.

NOW, THEREFORE, the Declaration is hereby amended as follows:

I. **Repeal and Restatement.** Section 16 is revised by deleting that section in its entirety and substituting the following:

16. **Parking Spaces.** Parking Spaces located in the Common Area shall be used primarily for the short-term parking of motorized vehicles belonging to guests of Owners, except as authorized by the Rules. Any Owner, tenant or other resident of a Lot who does not have the prior written consent of the Association or who is not otherwise authorized by the Rules to utilize a Parking Space, must park motorized vehicles in the Owner's Driveway or Garage. The Association may from time to time change the number and location of such Parking Spaces. The Rules may define the types of motorized vehicles that are prohibited from parking in the Parking Spaces and Driveways.

II. **Repeal and Reinstatement.** Section 24 is revised by deleting that section in its entirety and substituting the following:

**24. Mortgagee's Rights and Registration.**

(a) Registration by First Mortgagees and Notice.

(i) Each First Mortgagee that desires notice of and the opportunity to vote for or against any proposed amendment to the Declaration, By-Laws or Articles of Incorporation shall first register, in writing, with the Association by furnishing the following:

- (A) The address of the Lot to which the First Mortgage applies;
  - (B) The name of the Mortgagor(s);
  - (C) An address to which notices should be mailed to the First Mortgagee;
- and
- (D) A statement that the First Mortgagee desires to be a Registered Mortgagee.

(ii) Each First Mortgagee satisfying the above requirements, is hereafter defined as a "Registered Mortgagee" that is entitled to vote, as allowed in Section 25 of this Declaration.

(iii) Notice of any proposed amendment to the Declaration, By-Laws or Articles of Incorporation shall be sent to any Registered Mortgagee at their registered addresses by First Class Mail. A certificate of mailing shall be prepared and retained by the Association.

(iv) Each Registered Mortgagee shall have sixty days from the date of the Association's request to submit a written vote (yes or no) on the proposed amendment. Failure to furnish a written vote within the sixty day period shall constitute a waiver of the right to vote on that issue.

(v) Failure to register, shall constitute a waiver of the First Mortgagee's right to notice and vote on any particular amendment.

(b) Each First Mortgagee, whether a Registered Mortgagee or not, upon written request by such holder to the Board shall receive any of the following:

(i) Copies of budgets, notices of assessments, insurance certificates, or any other notices or statements provided by the Association all of which shall also be provided to any Owner upon request;

(ii) Any audited or unaudited financial statements of the Association within ninety (90) days following the end of any fiscal year, which are prepared for the Association and distributed to the Owners; provided, however, the holders of First Mortgages on fifty-one percent (51%) of the Lots subject to this Declaration shall be entitled to have an audited financial statement prepared at their expense if one is not otherwise available;

(iii) Copies of notices of meetings of the Owners and the right to be represented at any such meetings by a designated representative;

(iv) Notice of any proposed action that requires the consent of a specified percentage of the First Mortgagees;

(v) Notice of substantial damage to or destruction of any Lot, or any part of the Common Areas;

(vi) Notice of commencement of any condemnation or eminent domain proceedings with respect to any part of the Lots or Common Areas;

(vii) Notice of any sixty (60) day delinquency in payment of assessments or charges owed by the Owner of a Lot on which such First Mortgagee holds a First Mortgage;

(viii) The right to examine the books and records of the Association at any reasonable time;

(ix) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(c) The request of a First Mortgagee shall specify which of the above it desires to receive, the Lot or Lots on which it holds a First Mortgage and shall indicate the address to which any notices or documents shall be sent by the Association. Failure of the Association to provide any of the foregoing to a First Mortgagee who has made a proper request therefore shall not affect the validity of any action which is related to any of the foregoing.

(d) The Association need not inquire into the validity of any request made by a holder of a First Mortgage hereunder and in the event of multiple requests from proposed holders of First Mortgages on the same Lot, the Association shall honor the most recent request received.

(e) No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any holder of a First Mortgage taken in good faith and for value and perfected by recording in the appropriate office, prior to the time of recording in said office of an instrument describing the Lot and listing the name or names of the Owner or Owners thereof and giving notice of such violation, breach or failure to comply. However, any purchaser on foreclosure or person accepting a deed in lieu thereof shall take subject to this Declaration.

III. **Repeal and Reinstatement**. Section 25 is revised by deleting that section in its entirety and substituting the following:

25. **Duration and Amendment**.

(a) **Duration**. The covenants and restrictions of this Declaration run with and bind the community perpetually unless otherwise terminated as provided in C.R.S. § 38-33.3-218.

(b) **Revocation or Amendments to Declaration**.

(i) This Declaration shall not be revoked nor shall any of the provisions herein be amended unless Owners representing an aggregate ownership interest of sixty-seven percent (67%) or more of the Lots consent or agree to such revocation or amendment.

(ii) In addition to the Owner approvals required in this section, no material amendments shall be made to the Declaration unless approved by fifty-one percent (51%) or more of the duly Registered Mortgagees (based upon one vote for each mortgage so held). Failure of a duly Registered Mortgagee to vote within the time allotted in Section 24 shall constitute an affirmative vote in favor of the revocation or amendment to the Declaration. For purposes of this section a change to any of the following is considered material:

- (A) voting rights;
- (B) assessments, assessment liens or subordination of assessment liens;
- (C) reserves for maintenance repair and replacement of Common Areas;
- (D) responsibility of maintenance and repairs;
- (E) reallocation of interest in the general or limited Common Areas or rights to their use;
- (F) boundaries of any unit;
- (G) convertibility of unit, into Common Area or vice versa;
- (H) expansion or contraction of the Project, or the addition or annexation of withdrawal of property to or from the Project;
- (I) insurance or fidelity insurance;
- (J) leasing of units;
- (K) imposition of any restriction on an Owner's right to sell or transfer a Lot;
- (L) a decision by the Association to establish self-management when professional management had been required previously by a duly Registered First Mortgagee;
- (M) restoration or repair of the Project (after a hazard, damage or partial condemnation) in a manner other than specified in the documents;
- (N) any actions to terminate the legal status of the Project after substantial destruction or condemnation occurs; or
- (O) any provision that expressly benefits First Mortgagees or the insurers or guarantors of First Mortgages.

(c) **Validity.** Any action to challenge an amendment's validity must be brought within one year of the effective date of the amendment.

- IV. **Conflicting Provisions.** The terms and conditions of this Amendment control over any conflicting provision set forth in the Declaration, Articles, Bylaws or Rules and Regulations and such conflicting provision is of no further force or effect.
- V. **No Other Amendments.** Except as amended by the terms of this Amendment, the Declaration shall remain in full force and effect.
- VI. **Effective Date.** This Amendment shall be effective upon recording.
- VII. **Validity.** Any action to challenge this Amendment's validity must be brought within one year of the effective date of the Amendment.

IN WITNESS WHEREOF, the undersigned officer of The Highline Club Owners Association, hereby certifies that this Amendment to the Second Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easement was duly adopted by the Owners of the Association and First Mortgagees.

**The Highline Club Owners Association,**  
a Colorado nonprofit corporation


By:   
President

Print Name: Peter M. Meersman

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF Arapahoe            )

The foregoing was acknowledged before me this 19 day of January, 2019, by Peter M. Meersman, as President of The Highline Club Owners Association, a Colorado nonprofit corporation.

Witness my hand and official seal.  
My commission expires: 8.29.21

  
Notary Public

**TARA JENAY PEDNAULT-MCADOO**  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20174036181  
MY COMMISSION EXPIRES 08/29/2021